

Historic, Archive Document

Do not assume content reflects current scientific knowledge, policies, or practices.

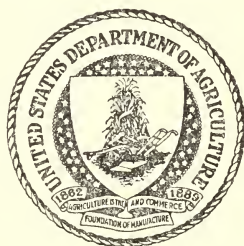
UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

CODE OF FAIR COMPETITION SERIES—CODE No. 18

CODE OF FAIR COMPETITION
FOR THE
AUCTION AND LOOSE LEAF TOBACCO
WAREHOUSE INDUSTRY

Approved by the President of the United States
June 30, 1934
Effective July 9, 1934

1. Executive Order
2. Letter of Transmittal (Secretary of Agriculture)
3. Letter of Transmittal (Administrator, N.R.A.)
4. Code



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1934

EXECUTIVE ORDER

Approval of Code of Fair Competition for the Auction and Loose-leaf Tobacco Warehouse Industry

Whereas, the Secretary of Agriculture and the Administrator for Industrial Recovery having rendered their separate reports and recommendations and findings on the provisions of said Code, coming within their respective jurisdictions, as set forth in Executive Order No. 6182 of June 26, 1933, as supplemented by Executive Order No. 6207 of July 21, 1933, and Executive Order No. 6345 of October 20, 1933, as amended by Executive Order No. 6551 of January 8, 1934;

Now, therefore, I, FRANKLIN D. ROOSEVELT, President of the United States, pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do hereby find:

1. An application has been duly made, pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a Code of Fair Competition for the Auction and Looseleaf Tobacco Warehouse Industry; and,

2. Due notice and opportunity for hearing to interested parties has been given pursuant to the provisions of the Act and regulations thereunder; and

3. Hearings have been held on said Code, pursuant to such notice and pursuant to the pertinent provisions of the Act and regulations thereunder; and

4. Said Code of Fair Competition constitutes a code of fair competition, as contemplated by the Act and complies in all respects with the pertinent provisions of the Act, including clauses (1) and (2) of subsection (a) of section 3 of Title I of the Act; and

5. It appears, after due consideration, that said Code of Fair Competition will tend to effectuate the policy of Congress as declared in section 1 of Title I of the Act.

Now, therefore, I, FRANKLIN D. ROOSEVELT, President of the United States, pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do hereby approve said Code of Fair Competition for the Auction and Looseleaf Tobacco Warehouse Industry; *Provided, however*, That the provisions of section 24 of article VII shall not become effective, and they are hereby stayed for a period of twenty days in

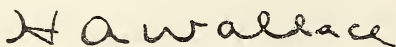
order to afford consideration to the objections of any interested parties, and that at the expiration of such period the provisions of such section shall become effective, unless I shall otherwise order.



President of the United States.

THE WHITE HOUSE, June 30, 1934.

APPROVAL RECOMMENDED:



Secretary of Agriculture.



Administrator.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

LETTER OF TRANSMITTAL

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: I have the honor to submit the following:

1. There is transmitted herewith a Code of Fair Competition for the Auction and Looseleaf Tobacco Warehouse Industry, which I recommend for your approval and which the Administrator for Industrial Recovery recommends for your approval with reference to the labor provisions thereof. There accompanies the Code the report of the Administrator of the Agricultural Adjustment Act, the report of the Administrator of Title I of the National Industrial Recovery Act, and a true, correct, and complete stenographic report of all evidence introduced at a public hearing on said Code, held pursuant to section 3 (a), Title I of the National Industrial Recovery Act.

2. By virtue of Executive Order No. 6182, of June 26, 1933, as supplemented by Executive Order No. 6207, of July 21, 1933, and Executive Order No. 6345, of October 20, 1933, as amended by Executive Order No. 6551, of January 8, 1934, which, pursuant to Title I of the National Industrial Recovery Act of June 16, 1933, (Public No. 67, 73rd Congress) delegated to me, as Secretary of Agriculture, certain of the powers vested in the President of the United States by the aforesaid Code, and after considering the aforesaid Code of Fair Competition and a true, correct, and complete stenographic report of all evidence introduced at such public hearing, and being fully advised in the premises, I make the following findings:

1. That an application has been duly made by the National Association of Auction and Looseleaf Tobacco Warehouse Associations, pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for the approval of the President, of the Code of Fair Competition for the Auction and Looseleaf Tobacco Warehouse Industry. Said National Association of Auction and Looseleaf Tobacco Warehouse Associations is an association of ten local trade associations. Membership in the National Association is confined to the tobacco warehouse associations of the various sections of the United States. All tobacco warehouse associations are members of the National Association. The following are the names of the local associations.

- (a) The South Carolina Belt Warehouse Association;
- (b) The East Carolina Warehouse Association;
- (c) The Middle Belt Warehouse Association;
- (d) The Old Belt Warehouse Association;

- (e) The Dark Fired and Unfired Warehouse Association;
- (f) The Kentucky Burley Warehouse Association;
- (g) The Tennessee Burley Warehouse Association;
- (h) The Virginia Dark Warehouse Association;
- (i) The West Virginia and Ohio Warehouse Association;
- (j) The Georgia Tobacco Warehouse Association.

The supervisory body consists of eleven members. Each of the ten local associations is empowered to select one representative and members of the industry not affiliated with any trade association are to select the eleventh member.

The National Association and the ten local associations are truly representative of the industry and impose no inequitable restrictions on admission to membership.

2. That the Auction and Looseleaf Tobacco Warehouse Industry, covered by such Code, is included within the trades, industries or subdivisions thereof enumerated in section II of Executive Order No. 6551, of January 8, 1934 (amending Executive Order No. 6182, of June 26, 1933, as supplemented by Executive Order No. 6207, of July 21, 1933, and Executive Order No. 6345, of October 20, 1933).

3. That the provisions of the Code establishing standards of fair competition (a) are regulations of transactions in or affecting the current of interstate and/or foreign commerce and (b) are reasonable.

4. That the Code is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them and will not permit monopolies or monopolistic practices.

5. That the Code will not prevent an individual from pursuing the vocation of manual labor and selling or trading the products thereof nor prevent anyone from marketing or trading the produce of his farm.

6. That due notice and opportunity for hearing, in connection with the aforesaid Code, has been afforded interested parties, in accordance with Title I of the National Industrial Recovery Act and applicable regulations issued thereunder. The provisions of section 24 of Article VII have been added since the date of the public hearing. It is recommended that the provisions of this article shall not become effective for a period of twenty days after the approval of the Code, to afford consideration of the objections of any interested parties.

7. That said Code will tend to effectuate the declared policy of Title I of the National Industrial Recovery Act as set forth in section 1 of said Act in that the terms and provisions of such Code tend to: (a) remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; (b) to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups; (c) to eliminate unfair competitive practices; (d) to promote the fullest possible utilization of the present productive capacity of industries; (e) to avoid undue restriction of production (except as may be temporarily required); (f) to increase the consumption of industrial and agri-

cultural products by increasing purchasing power, and (g) otherwise to rehabilitate industry and to conserve natural resources.

8. That said Code, when approved by the President, will constitute a Code of Fair Competition for the Auction and Loose-leaf Tobacco Warehouse Industry within the meaning of section 3 (a) of Title I of the National Industrial Recovery Act.

Respectfully,

H Wallace

Secretary.

JUNE 30, 1934.

NATIONAL RECOVERY ADMINISTRATION

LETTER OF TRANSMITTAL

The PRESIDENT,
The White House.

SIR: This is a report on those portions of the Code of Fair Competition for the Auction and Loose Leaf Tobacco Warehouse Industry which, pursuant to the relevant Executive orders, are subject to the jurisdiction of the Administrator for Industrial Recovery. A public hearing on the proposed code was held in Washington, D.C., on December 23, 1933, in accordance with the provisions of the National Industrial Recovery Act.

HOURS AND WAGES

All labor, clerical and otherwise, is placed on a basis of forty (40) hours per week and eight (8) hours per day, with the exception of clerical employees engaged in weighing, checking, and calculating who may work up to twelve (12) hours per day, provided that such employees shall not be paid less than twenty-five dollars (\$25.00) per week and shall not work in excess of forty (40) hours per week.

Employees in managerial, executive, supervisory or technical capacities, or special office employees receiving thirty-five dollars (\$35.00) or more per week are exempted from the provisions as to hours. Watchmen are limited to fifty-six (56) hours a week.

Overtime at the rate of time and one-third is provided for employees on emergency maintenance and repair work in excess of forty (40) hours per week. No employees shall be permitted to work more than six (6) days in any seven (7) day period.

The minimum rate for unskilled common labor is set at twenty-two and one-half cents ($22\frac{1}{2}\text{¢}$) per hour. This rate in conjunction with the reduction in hours is a very substantial increase for this industry. Clerical and other office employees shall be paid sixteen dollars (\$16.00) per week. Certain clerical employees, as described in paragraph 1 under Hours and Wages, are to be paid not less than twenty-five dollars (\$25.00) per week. Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees. The weekly wages of all employees receiving more than the minimum are not to be reduced below the rates existing on June 1, 1933, notwithstanding the reduction in hours.

ECONOMIC EFFECTS OF THE CODE

The auction, or loose-leaf tobacco market, is now the prevailing system of selling tobacco in all tobacco growing areas from southern Ohio and Indiana, southward. This area includes all States south

of the Ohio and Potomac Rivers in which tobacco is grown on a commercial scale, except the cigar-leaf districts of Florida and Georgia. Many of the warehouses are located in the smaller towns and the unskilled laborers employed are drawn from the farms. These laborers for the most part are negroes. Approximately 13,000 to 15,000 persons are employed in the industry.

The warehousemen's business is to provide the facilities by which the producer's commodity may be offered for sale. His revenue is derived from warehouse and selling charges, which vary in different States. In Virginia, North Carolina and South Carolina these charges are fixed by State law. This industry is highly seasonal.

Practically all of the domestic tobacco used in the manufacture of cigarettes, smoking tobacco, chewing tobacco, and snuff is sold through auction warehouses. In 1929 the production of the various types of leaf tobacco usually sold through the auction warehouses totaled 1,365,427,000 pounds. The United States Census Bureau places the value of this tobacco at \$155,600,000.

As a result of the crop reduction program of the Agricultural Adjustment Administration, employment in this industry will be decreased. This decline in employment will be less severe as a result of this Code which limits the weekly hours of work to a maximum of 40 hours. Warehousemen estimate that the gross income of the industry in 1934 will be 25 percent less than it was in previous years.

Accordingly, I recommend the approval of the Code of Fair Competition for the Auction and Loose Leaf Tobacco Warehouse Industry to the extent of my jurisdiction as stated in your Executive Order of June 26, 1933.

Respectfully


Administrator.

JUNE 30, 1934.

CODE OF FAIR COMPETITION FOR THE AUCTION AND LOOSE LEAF TOBACCO WAREHOUSE INDUSTRY

ARTICLE I—PURPOSES

To effect the policies of Title I of the National Industrial Recovery Act, this Code is established as a Code of Fair Competition for the Auction and Loose Leaf Tobacco Warehouse Industry, and its provisions shall be the standards of fair competition for such industry and be binding upon every member thereof.

ARTICLE II—DEFINITIONS

As used in this Code, the following words and phrases shall be defined as follows:

SECTION 1. The term "President" means the President of the United States of America.

SEC. 2. The terms "Act", "Secretary", and "Administrator" as used herein mean respectively, Title I of the National Industrial Recovery Act, the Secretary of Agriculture, or his duly appointed agent, and the Administrator for Industrial Recovery.

SEC. 3. The term "tobacco" means domestically grown tobacco in the unstemmed and loose leaf form usually marketed and sold on the auction and loose leaf tobacco floors.

SEC. 4. The term "industry" means and includes the business of operating a leaf tobacco warehouse for the sale of loose leaf tobacco at auction and such related branches and subdivisions thereof as may from time to time be included under the provisions of this Code.

SEC. 5. The term "employee" as used herein includes any and all persons engaged in the industry, however compensated, except a member of the industry.

SEC. 6. The term "employer" as used herein means any person by whom any such employee is compensated or employed.

SEC. 7. The terms "member of the industry", "member", and "warehouseman" as used herein mean and include, without limitation, any individual, partnership, association, corporation or other form of enterprise engaged in the industry, either as an employer or on his or its own behalf.

SEC. 8. The term "special office employee" as used herein means "book and bill men" and "rapid calculators".

The terms "book and bill man", "rapid calculator", and "clip-man" as used herein mean any employee who accompanies the auctioneer and/or calculates the monies due and/or drafts invoices immediately after the sale.

SEC. 9. The term "weigher" as used herein means any employee who weighs tobacco and lists the owner's name, and number of pounds in each basket on the warehouse books.

SEC. 10. The term "floor manager" as used herein means any employee who directs and supervises the displaying of tobacco on the warehouse floor.

SEC. 11. The term "ticket marker" as used herein means any employee who accompanies the auctioneer and lists on each basket ticket the purchases of tobacco and price paid for it.

SEC. 12. The term "watchman" as used herein means an employee ninety percent (90%) of whose working time is engaged in watching and guarding the premises and property of a member of the industry.

SEC. 13. The term "buyer" means any person, firm, or corporation who follows and attends an auction sale of tobacco and bids and/or buys tobacco at the auction markets of the industry.

SEC. 14. The term "person", as used herein, means any individual, partnership, corporation, association, and/or any other business unit, and/or any other form of enterprise.

ARTICLE III—HOURS

SECTION 1. No employee shall be permitted to work in excess of forty (40) hours in any one week, or eight (8) hours in any twenty-four (24) hour period, except as herein otherwise provided.

SEC. 2. The provisions of section 1 shall not apply to persons employed in a managerial, executive, supervisory, technical capacity, nor to special office employees, who earn regularly thirty-five dollars (\$35.00) or more per week.

SEC. 3. Watchmen shall not be permitted to work in excess of fifty-six (56) hours in any one week.

SEC. 4. The provisions of section 1 of this article shall not apply to employees engaged on emergency maintenance nor emergency repair work involving breakdowns or protection of life and property: *Provided, however,* That such extra hours worked by employees on emergency maintenance or emergency repair work shall be compensated for at the rate of time and one-third, and reports shall be made monthly to the Code Authority stating the nature of the work and the number of hours worked by employees above the maximum.

SEC. 5. No person employed in accounting, clerical, or office work shall be permitted to work in excess of forty (40) hours in any one week, or eight (8) hours in any twenty-four (24) hour period except as herein otherwise provided.

SEC. 6. Clerical employees engaged in weighing, checking and/or calculating shall not be permitted to work in excess of forty (40) hours in any one week, but may be permitted to work not more than twelve (12) hours per day: *Provided, however,* That the weekly wage of such employees shall be regularly not less than twenty-five dollars (\$25.00) a week.

SEC. 7. No employee shall be permitted to work more than six (6) days in any seven (7) day period.

SEC. 8. No employer shall knowingly permit any employee to work for any time which, when totalled with that already performed with another employer or employers in this industry, exceeds the maximum permitted herein.

ARTICLE IV—WAGES

SECTION 1. No employee shall be paid in any pay period less than at the rate of twenty-two and one-half ($22\frac{1}{2}$) cents per hour.

SEC. 2. No person employed in accounting, clerical, or office work shall be paid in any pay period less than at the rate of \$16.00 for a week of forty (40) hours.

SEC. 3. No employee engaged as a weigher, floor manager, bookman, ticket marker, and/or clipman, shall be paid in any pay period less than at the rate of eighteen dollars (\$18.00) for a week of forty (40) hours.

SEC. 4. No watchman shall be paid in any pay period less than at the rate of sixteen dollars (\$16.00) for a week of fifty-six (56) hours.

SEC. 5. Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

SEC. 6. A person whose earning capacity is limited because of age or physical or mental handicap may be employed on light work at a wage below the minimum established by this code if the employer obtains from the State authority designated by the United States Department of Labor a certificate authorizing his employment at such wages and for such hours as shall be stated in the certificate. Each employer shall file monthly with the Code Authority a list of all such persons employed by him, showing the wages paid to, and the maximum hours of work for such employee.

SEC. 7. The weekly wages of all employees receiving more than the minimum wages specified in this article shall not be reduced, notwithstanding any reduction in the number of working hours of such employee. In no case shall existing hourly rates for unskilled labor above the code minimum be reduced.

SEC. 8. Wages shall be exempt from fines and rebates; and from charges and deductions, except charges and deductions for employees' contributions, voluntarily made by employees for benefit funds. No employer shall withhold wages except upon service of legal process or other papers lawfully requiring such withholding. Deductions for other purposes than those heretofore stated may be made only pursuant to a contract in writing which is kept on file by the employer for six (6) months after the termination of the contract and which shall be kept open for the inspection of the Administrator.

SEC. 9. There shall be an equitable adjustment of all wages above the minimum and to that end within sixty (60) days from the approval of this Code, the Code Authority shall submit for the approval of the Administrator a proposal for adjustment in wages above the minimum: *Provided, however,* That in no event shall hourly rates of pay be reduced.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers or labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

SEC. 2. No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

SEC. 3. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

SEC. 4. No person under the age of sixteen (16) years shall be employed in the industry.

SEC. 5. No person under eighteen (18) years of age shall be permitted to work at operations or occupations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator within sixty (60) days after the effective date of this Code, a list of such occupations.

SEC. 6. Employers shall make payment of all wages in lawful currency or by negotiable checks, payable on demand. All contracts of employment shall prescribe payment of wages at least every two weeks and salaries at least every month.

SEC. 7. No provision in this Code shall supersede any State or Federal law which imposes on employers more stringent requirements as to age of employees, wages, hours of work, or as to safety, health, sanitary or general working conditions, or insurance or fire protection, than are imposed by this Code.

SEC. 8. Employers shall not change the method of payment of employees' compensation or reclassify employees or duties of occupations performed by employees or engage in any other subterfuge so as to defeat the purposes of the Act or the provisions of this Code.

SEC. 9. No employee paid at a rate in excess of the minimum shall be discharged and reemployed at a lower rate of pay for the purpose of evading the provisions of this Code.

SEC. 10. All employers shall post and keep posted copies of this Code in conspicuous places accessible to all employees. Every member of the industry shall comply with all rules and regulations relative to the posting of provisions of codes of fair competition which may from time to time be prescribed by the Administrator.

SEC. 11. Every employer shall provide for the safety and health of employees during the hours and at the places of their employment. Standards for safety and health shall be submitted by the Code Authority to the Administrator within ninety (90) days after the effective date of the Code.

ARTICLE VI—ORGANIZATION, POWERS, AND DUTIES OF THE CODE AUTHORITY

SECTION 1. *Code Authority.*—(a) A Code Authority known as the Auction and Loose Leaf Tobacco Warehouse Industry Code Authority shall be established for the purpose of assisting in the administration, supervision, and promotion of the performance of the provisions of this Code. Except as the jurisdiction of the Secretary and the Administrator may hereafter be changed, pursuant to order of the President, the Code Authority shall assist the Administrator in all matters relating to the administration of provisions of this Code relating to hours of labor, rates of pay, and other conditions

of employment, and shall assist the Secretary in all matters relating to the administration of all the other provisions of this Code.

(b) The Code Authority shall consist of eleven members and shall be constituted forthwith upon the approval of this Code in the following manner:

(1) One member of the Code Authority shall be elected promptly after the effective date of this Code by the members of each of the following Warehouse Associations:

- (1) The South Carolina Belt Warehouse Association;
- (2) The East Carolina Warehouse Association;
- (3) The Middle Belt Warehouse Association;
- (4) The Old Belt Warehouse Association;
- (5) The Dark Fired and Unfired Warehouse Association;
- (6) The Kentucky Burley Warehouse Association;
- (7) The Tennessee Burley Warehouse Association;
- (8) The Virginia Dark Warehouse Association;
- (9) The West Virginia and Ohio Warehouse Association;
- (10) The Georgia Tobacco Warehouse Association.

(2) One member of the Code Authority shall be elected by the members of the industry who are not members of any of the above-named warehouse associations: *Provided, however,* That if such member is not so elected within forty-five days after the effective date of this Code, the Secretary and the Administrator shall in agreement appoint a member to the Code Authority to represent members of the industry who are not members of any of the above-mentioned associations, which member so appointed shall serve until his successor is elected in the manner provided for in this clause.

(3) The members of the Code Authority shall serve for the term of one year and until their successors are elected.

(4) Each member of the industry, entitled to vote for a member of the Code Authority, pursuant to clauses (1) and (2) shall be entitled to one vote. Votes may be cast in person, by mail, or by proxy.

(5) Any vacancy occurring in the membership of the Code Authority shall be filled from the same group in which such vacancy occurred for the unexpired term of such member by vote of the Code Authority. Any member so elected shall represent the members of the industry theretofore represented by the member of the Code Authority whom he succeeds.

(6) In addition to the members of the Code Authority as above provided, the Secretary and Administrator may each appoint not more than three (3) members or representatives who shall be without vote and shall serve without expense to the industry, for such terms as the Secretary or Administrator, as the case may be, may specify.

(c) Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall (1) impose no inequitable restrictions on membership, and (2) submit to the Secretary and the Administrator true copies of its articles of association, bylaws, regulations, and any amendments when made thereto, together with such other information as to mem-

bership, organization, and activities as the Secretary or the Administrator may deem necessary to effectuate the purposes of the Act.

(d) In order that the Code Authority shall at all times be truly representative of the industry and in other respects comply with the provisions of the Act, the Secretary or the Administrator may prescribe such hearings as he may deem proper; and thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority, or take such other action as the evidence adduced at the hearing may warrant.

(e) It being found necessary, in order to support the administration of this Code and to maintain the standards of fair competition established hereunder and to effectuate the policy of the Act, the Code Authority is authorized:

- (1) To incur such reasonable obligations as are necessary and proper for the foregoing purposes and to meet such obligations out of funds which may be raised as hereinafter provided and which shall be held in trust for the purposes of the Code;

- (2) To submit to the Secretary and/or the Administrator for their approval, subject to such notice and opportunity to be heard as they may deem necessary, (1) an itemized budget of its estimated expenses for the foregoing purposes, and (2) an equitable basis upon which the funds necessary to support such budget shall be contributed by members of the industry;

- (3) After such budget and basis of contribution have been approved by the Secretary and/or the Administrator, to determine and obtain equitable contribution as above set forth by all members of the industry, and to that end, if necessary, to institute legal proceedings therefor in its own name.

- (4) Each member of the industry shall pay his or its equitable contribution to the expenses of the maintenance of the Code Authority, determined as hereinabove provided, and subject to rules and regulations pertaining thereto issued by the Secretary and/or the Administrator. Only members of the industry complying with the Code and contributing to the expenses of its administration as hereinabove provided, shall be entitled to participate in the selection of members of the Code Authority or to receive the benefits of any of its voluntary activities or to make use of any emblem of insignia of the National Recovery Administration.

- (5) The Code Authority shall neither incur nor pay any obligation in excess of the amount thereof as estimated in its approved budget, except upon approval of the Secretary and/or the Administrator; and no subsequent budget shall contain any deficiency item for expenditures in excess of prior budget estimates except those which the Administrator shall have so approved.

- (f) Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent, or employee of the Code Authority. Nor shall any member of the Code Authority,

exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Code, except for his own willful malfeasance or non-feasance.

(g) If the Secretary or the Administrator shall determine as to matters subject to their respective jurisdictions, that any action of the Code Authority or any agency thereof may be unfair or unjust, or contrary to the public interest the Secretary or Administrator, as the case may be, may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such Code Authority or agency, pending final action, which shall not be effective unless the Secretary or the Administrator approves, or unless he shall fail to disapprove after thirty days' notice to him of intention to proceed with such action in its original or modified form.

SEC. 2. *Powers and duties.*—(a) In all matters relating to the administration of the provisions of this Code, except those relating to hours of labor, rates of pay, and other conditions of employment (except as the jurisdiction of the Secretary and the Administrator may hereafter be changed pursuant to order of the President) the Code Authority shall have the following powers and duties, the exercise of which shall be reported to the Secretary:

(1) Subject to such rules and regulations as may be issued by the Secretary, to insure the execution of the provisions of this Code, and to provide for the compliance by the industry with the provisions of the Act.

(2) To adopt bylaws, rules, and regulations for its procedure.

(3) To obtain from members of the industry such information and reports as may be necessary for the administration of this Code by the Code Authority, and the performance of its powers and duties hereunder. No such individual reports shall be disclosed to any other member of the industry or to any other party except as may be directed by the Secretary.

(4) To use, with the approval of the Secretary, such trade associations and other agencies as it deems proper to carry out any of its activities herein provided for: *Provided*, That nothing in this clause contained shall relieve the Code Authority of its duties or responsibility under this Code and that such trade associations and agencies shall at all times be subject to, and comply with, the provisions hereof.

(5) To receive and investigate complaints of alleged violations of this Code, and if it deems necessary to submit to the Secretary reports of such alleged violations.

(6) To make recommendations to the Secretary for the coordination of the administration of this Code with such other codes, if any, as may be related to the industry or affect members of the industry.

(7) To recommend to the Secretary any action or measures deemed advisable, including further fair-trade practice provisions to govern members of the industry in relation with each other or with other trades and industries, and measures for industrial planning.

(b) In all matters relating to the administration of the provisions of this Code relating to hours of labor, rates of pay, and other con-

ditions of employment (except as the jurisdiction of the Secretary and the Administrator may hereafter be changed pursuant to the order of the President) the Code Authority will have the following duties, the exercise of which shall be reported to the Administrator:

(1) Subject to such rules and regulations as may be issued by the Administrator, to assure the execution of the provisions of this Code, and to provide for the compliance by the members of the industry with the provisions of the Act.

(2) To adopt bylaws, rules, and regulations for its procedure.

(3) To obtain from the members of the industry such information and reports as may be necessary for the administration of this Code by the Code Authority, and the performance of its powers and duties hereunder. No such individual reports shall be disclosed to any other member of the industry, or to any other person, except as may be directed by the Administrator.

(4) To make recommendations to the Administrator for the coordination of the administration of this Code with such other codes, if any, as may be related to or affect the members of the industry.

(5) To recommend to the Administrator any action or measures deemed advisable to govern the members of the industry in their relations with each other and with other trades and industries.

SEC. 3. *Producers' Advisory Committee.*—The Secretary shall appoint a Producers' Advisory Committee, consisting of five producers, who shall serve for such terms as the Secretary may designate, and shall be subject to removal by the Secretary. The duties of the Producers' Advisory Committee shall be to make investigations with respect to the provisions of this Code and the operation thereof, and to make recommendations to the Secretary with respect to the provisions of this Code and the operation thereof and amendments thereto. The Producers' Advisory Committee shall select a Chairman from among its members. Such Chairman shall be a member of the Code Authority, and entitled to attend all meetings thereof, but shall be without vote. The necessary expenses incurred by the Producers' Advisory Committee shall be deemed to be an expense of the Code Authority, and shall be paid by the Code Authority: *Provided*, That the expenses to be incurred by the Producers' Advisory Committee shall be subject to the approval of the Secretary, and in no event shall exceed the sum of \$1,250 per annum unless specifically authorized by the Code Authority.

The Code Authority shall mail promptly to each member of the Producers' Advisory Committee minutes of all meetings held and record of all decisions made. All the books, records, accounts, memoranda and documents of the Code Authority shall be open to the inspection of any member of the Producers' Advisory Committee at any reasonable hour.

ARTICLE VII—UNFAIR METHODS OF COMPETITION

SECTION 1. No warehouseman shall make or grant to any customer rebates, allowances, or concessions of any kind, including rebates in the form of special services, discounts, prizes, absorption of

transportation costs, or gratuities. No warehouseman shall, directly or indirectly, pay or otherwise compensate a trucker for the purpose of inducing the delivery of tobacco to his warehouse. Nothing in this section contained, however, shall be construed to prohibit (a) the payment of dividends, on a patronage basis, to any member of a cooperative organization of producers organized under the laws of any State or of the United States, or (b) the payment by any warehouseman of the charges for grading tobacco in accordance with the United States grades.

SEC. 2. No warehouseman shall discriminate in favor of or against any producer in any manner. No warehouseman shall reserve floor space in his warehouse for any person other than a producer or a *bona fide* dealer in tobacco. The reservation of floor space for truckers is hereby prohibited.

SEC. 3. No warehouseman, his agents, servants, or employees shall drum or solicit tobacco in any city (other than the city in which his warehouse is located) in which an auction tobacco market is located, during the periods of each year when tobacco is being sold at auction in any such auction tobacco market.

SEC. 4. No warehouseman, shall, directly or indirectly, employ any person exclusively to solicit tobacco for sale in the warehouse of such warehouseman.

SEC. 5. No warehouseman, his agents, servants, or employees shall solicit tobacco for sale in his warehouse, while such tobacco is in transit from the farm of the producer to an auction market.

SEC. 6. The maximum rate of sale of piles or baskets of tobacco at auction shall not exceed 360 piles or baskets per hour: *Provided, however,* That in the case of tobacco which has been graded in accordance with the United States grades, the maximum rate of sale shall not exceed 375 piles or baskets per hour.

SEC. 7. No warehouseman shall knowingly permit or cause to be published, an inaccurate statement concerning the prices of tobacco or the policies or services of such warehouseman.

SEC. 8. No warehouseman shall permit a buyer to offer to buy or to buy tobacco in his warehouse until after such tobacco has been offered for sale at auction, except tobacco which cannot be lawfully sold at auction.

SEC. 9. Upon the request of the producer thereof, no pile or basket of tobacco shall be moved from the point where it was sold at auction until at least fifteen minutes shall have elapsed after the sale thereof at auction. It shall be a condition of the acceptance by the auctioneer of any bid for tobacco that the seller, at any time within such fifteen minute period, shall have the right to reject such bid for any pile or piles of his tobacco.

SEC. 10. No warehouseman and no officer, agent, servant, or employee of a warehouseman shall bid for or purchase tobacco offered for sale at auction in the warehouse of such warehouseman, either for his own account or for the account of any other person, firm, or corporation, except for the account of such warehouse.

SEC. 11. No auctioneer or ticket marker shall bid for or purchase tobacco offered for sale at auction in the warehouse in which such auctioneer or ticket marker is employed: *Provided, however,* That

nothing in this section contained shall be construed to prohibit an auctioneer or ticket marker from selling tobacco produced by him.

SEC. 12. It shall be a condition of each sale of tobacco at auction by a warehouseman, that each pile of tobacco shall stand on its own merits and that no buyer shall be permitted to reject any pile or piles of tobacco purchased by him, upon the grounds that the seller thereof has rejected such buyer's bid for one or more other piles of tobacco owned by such seller, unless all such tobacco was purchased by the buyer at a single sale.

SEC. 13. A warehouseman may bid on tobacco offered for sale at auction in his warehouse for the account of his warehouse, but all bids made by him shall be made in good faith, and when his bid is the highest and last bid, he shall make settlement with the seller on the basis of such bid, unless such bid is rejected by the seller: *Provided, however,* That the initial bid placed on a basket, pile, or lot of tobacco by a warehouseman shall not be a binding bid.

SEC. 14. It shall be a condition of every sale of tobacco at auction, that the buyer thereof shall not be permitted to reject tobacco purchased by him upon the grounds that such tobacco was not of the character or in the condition which the buyer believed it to be at the time of his purchase unless it shall be proved that such tobacco was "nested", "shingled", "false packed", or damaged.

SEC. 15. No warehouseman shall defame a competitor by falsely imputing to him dishonorable conduct, inability to perform contracts, or questionable credit standing. No warehouseman shall make or permit to be made or published any false statement with reference to his competitors or to competitive markets.

SEC. 16. No warehouseman shall guarantee to any producer, a minimum price for his tobacco.

SEC. 17. No warehouseman shall entice any employee of a competitor with the purpose and effect of hampering, injuring or embarrassing such competitor in the conduct of his business.

SEC. 18. (a) Not exceeding sixty (60) days prior to the opening of a warehouse for the sale of tobacco during each season, all scales used in such warehouse for weighing tobacco shall be inspected and tested, either by a lawfully authorized inspector of weights and measures or by a person duly authorized by the Code Authority. A certificate or seal shall be attached to each set of scales inspected, which certificate or seal shall state (1) the date upon which such scale was inspected and corrected, (2) that such scale was accurate, on the date of inspection, and (3) the name of the person making such inspection. Additional inspections of scales shall be made at such times during the marketing season as the Code Authority may direct. No tobacco shall be offered for sale at auction in any warehouse unless and until the scales in such warehouse have been tested and certified as accurate pursuant to the foregoing provisions of this section.

(b) At least once daily while the scales are in use for the weighing of tobacco, such scales shall be tested by a licensed weighman by means of sealed weights furnished by the warehouseman. The sealed weights shall weigh not less than one hundred (100) pounds and shall be in units of twenty-five (25) pounds.

(c) All tobacco offered for sale in a warehouse shall be accurately weighed at the time it is unloaded and placed in baskets or containers by a weighman licensed by law or by the Code Authority. No warehouseman shall permit any person to weigh any tobacco offered for sale in a warehouse unless such person is licensed as a weighman, either by law or by the Code Authority.

(d) Each basket or container and each truck used in weighing tobacco shall be uniform in weight, with a maximum tolerance of one (1) pound.

Each basket or container shall be designated by a serial number marked thereon. When a basket or container of tobacco is weighed, the exact weight thereof to the nearest even pound, the name of the owner of such tobacco, and the serial number of such basket or container shall be entered on the books of the warehouse and on a ticket which shall be attached to such basket or container of tobacco.

(e) Each weighman from time to time and in such manner as the Secretary or the Code Authority may require, shall make a sworn report to him or it regarding the testing of the scales and the correctness of all weights made and certified by him.

SEC. 19. Each warehouseman shall pay a producer whose tobacco has been sold at auction, and shall charge the buyer who purchased such tobacco, on the basis of the weight of such tobacco, entered on the books of such warehouseman at the time the tobacco was displayed on the warehouse floor. The buyer may re-weigh any tobacco purchased by him before he removes it from the warehouse, in which event the settlement of such buyer with the warehouseman shall be on the basis of the weight so determined.

SEC. 20. At least sixty (60) days prior to the beginning of the marketing season of each calendar year, the Code Authority shall, subject to the approval of the Secretary, set the opening dates for warehouses in each of the tobacco belts: *Provided*, That in the event a loose leaf tobacco dealers' code is adopted, the Code Authorities of the two organizations shall jointly submit for the approval of the Secretary, a schedule of opening dates.

SEC. 21. Each tobacco warehouse association shall submit to the Code Authority, at least sixty (60) days before the opening of its marketing season in each crop year, a schedule of fees and commissions to be charged by all warehousemen in the tobacco belt in which such association is located. Upon the approval of the Secretary such schedule of charges shall be in effect during such marketing year. The provisions of this section shall not apply to States where such charges are otherwise fixed by law.

SEC. 22. No warehouseman shall furnish or provide any baskets to any producers of tobacco for use outside of the auction warehouse floor.

SEC. 23. The Code Authority shall have power within its discretion to determine, for each tobacco belt, the hours of the day during which the auction sales shall be conducted.

SEC. 24. On markets where tobacco is sold in baskets belonging to the warehouseman, the warehouseman shall charge and collect from each buyer for the use of such baskets a basket charge of 10¢ for each thousand pounds of tobacco so sold. Nothing in this sec-

tion shall be construed to prevent buyers from using their own baskets in removing tobacco from the auction warehouse floor.

ARTICLE VIII—GENERAL

SECTION 1. *Modification*.—This Code and all the provisions thereof are expressly made subject to the right of the President of the United States, in accordance with the provisions of subsection (b) of section 10 of the Act, from time to time, to cancel or modify any order, approval, license, rule, or regulation issued under said Act.

SEC. 2. *Reports*.—The members of the industry shall severally, from time to time, upon the request of the Secretary (or the Administrator in the case of information relating to hours of labor, rates of pay, and other conditions of employment) furnish such information to such Federal and State agencies on and in accordance with forms of reports supplied to them (which reports shall be verified under oath) as the Secretary or the Administrator may designate and require (1) for the protection of consumers, competitors, employees, and others, and in furtherance of the public interest, and (2) for the determination by the Secretary or the Administrator of the extent to which the declared policy of the Act is being effectuated by this Code.

Nothing in this Code shall relieve any person of existing obligations to furnish reports to Government agencies.

No individual reports shall be disclosed to any other member of the industry or any other party, except as may be directed by the Secretary or the Administrator.

SEC. 3. *Monopolies, etc.*—No provision of this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

SEC. 4. *Marketing agreements and licenses*.—In the event that any license is hereafter issued or any marketing agreement hereafter executed by the Secretary of Agriculture pursuant to the Agricultural Adjustment Act, approved May 12, 1933, as amended, for the tobacco warehouse industry or any subdivision thereof, then, to the extent specifically provided in such license or marketing agreement, the provisions of such license and/or marketing agreement may, for the duration thereof, suspend the operation of any provisions of article VII of this Code relating to any one or more of the subject matters referred to in subclauses (1) to (7) inclusive of section I of Executive Order No. 6551 signed by the President on January 8, 1934.

SEC. 5. *Effective date*.—This Code shall become effective on the second Monday after its approval by the President.

